

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff

V.

AUDIBLE MAGIC CORPORATION

*Defendant*

Civil Action No. 6:15-CV-00584-RWS-CMC

**FILED UNDER SEAL**

AUDIBLE MAGIC CORPORATION,

*Counterclaim Plaintiff*

V.

BLUE SPIKE, LLC, BLUE SPIKE, INC.  
and SCOTT A. MOSKOWITZ

### *Counterclaim Defendants*

**AUDIBLE MAGIC CORPORATION’S SUPPLEMENTAL REPLY IN SUPPORT OF ITS  
MOTION FOR SUMMARY JUDGMENT OF NONINFRINGEMENT**

Defendant and Counterclaim Plaintiff Audible Magic Corporation (“Audible”) filed a Sealed Reply in Support of its Motion for Summary Judgment of Noninfringement on June 25, 2015, Dkt. No. 22, (hereinafter “Reply”). Subsequently, on July 8, 2015, the parties conducted the deposition of Yannis Papakonstantinou, Ph.D. During this deposition, Dr. Papakonstantinou gave testimony significantly germane to Audible’s Reply. Audible would have provided a copy of this testimony for the Court’s review had it been available at the time of filing. Importantly, Dr. Papakonstantinou admitted that Audible’s (previously Muscle Fish’s) “MFCCs” are not an “abstract,” as described by the patents-in-suit. Therefore, Audible submits for the Court’s review this Notice of Supplemental Exhibit to Audible’s Reply in Support of its Motion for Summary Judgment of Noninfringement. The pertinent excerpt of

the deposition transcript of Yannis Papakonstantinou, Ph.D. taken on July 8, 2015 is attached to this Notice as Exhibit D.

Dated: August 10, 2015

/s/ Eric H. Findlay

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**CERTIFICATE OF SERVICE**

I hereby certify that the all counsel of record who are deemed to have consented to electronic service are being served on August 10, 2015, with a copy of this document *via* electronic mail.

/s/ Eric H. Findlay

Eric H. Findlay

**CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL**

I hereby certify that authorization to file this document under seal was provided by the Protective Order entered in the previously consolidated action 6:12-cv-499.

/s/ Eric H. Findlay

Eric H. Findlay